

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-3, 5, 6, 9, 10, and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bae et al. (Bae; US 2004/0055011 A1; as applied in the previous Official Action) in view of JP 2003-319020 A (KYOCERA; cited by the applicants and applied for the first time in the present application).

Bae teaches the claimed communication terminal (see paragraph [0027], "mobile telephone" and figure 6), comprising:

a contents reproducing unit (see paragraph [0031], "A tuner 50 functions to receive a television signal of a channel selected under the control of the control unit 10 and perform a frequency conversion operation with respect to the received television signal" and figure 2, "50") configured to reproduce content (see paragraph [0033], "The display unit 80 displays output data from the control unit 10 in the communication mode and displays output television video data and user data from the video processing unit 70 respectively to the corresponding areas in the television mode. In the television mode, the display unit 80 displays the television video data from the video processing unit 70 in its first display area and the user data therefrom in its second display area, respectively");

an incoming call processing unit configured to receive an incoming call and process the incoming call (see paragraph [0034], "In an incoming call mode, the control unit 10 detects the incoming call mode through the data processor 23 and generates a ringing signal through the audio processor 25");

a watching condition determining unit configured to determine a watching condition (read as detecting that a given TV mode has been set) of contents being reproduced (see paragraph [0103], "Thirdly, if the communication mode is the incoming call mode at step 811 and the voice communication mode at step 813 and the OSD function is selected in the voice communication mode at step 821", paragraph [0104], "Fourthly, if the communication mode is the incoming call mode at step 811 and the voice communication mode at step 813 and the television display function is selected in the voice communication mode at step 821, the control unit 10 notifies the video processing unit 70 of information regarding these modes at step 827' and figure 12A, "821"); and

a control unit configured to control the reproduction of the contents and the processing of the incoming call based on the watching condition (refer again to paragraphs [0103] and [104]) when the incoming call processing unit receives the incoming call during the reproduction of content (see paragraph [103]).

Bae is silent with respect to the watching condition determining unit indicating a priority between a user's intention to watch content and the user's intention to receive notification of an incoming call. However, in a same mobile communication terminal environment, KYOCERA plainly teaches the feature of indicating a priority between a user's intention to watch content and the user's intention to receive notification of an incoming call based on the "use history/watching condition" of the visual content (refer to paragraphs [0034], [0035], and [0039] – [0045] of KYOCERA). Therefore, it would have been obvious even to one of ordinary skill in the art at the time of the invention to

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incorporate such a feature as taught by KYOCERA into the communication terminal of Bae in order to provide further discernment by the terminal as to the desire of the user when an incoming call interrupts the viewing of a content (such motivation is plainly taught by KYOCERA).

The claimed storage unit of claims 2 and 3 is also considered obvious in view of KYOCERA; such storage unit has to be most basic to KYOCERA since KYOCERA has to rely on the "use history" and the "watching time" of the terminal user.

In order to store the "use history/watching condition" in the claimed storage unit, the claimed detecting unit of claim 5 must be most basic to KYOCERA in order to first gather the "use history/watching condition" data.

The features recited in claims 6, 9, and 10 are now also considered obvious in view of KYOCERA; the control unit has to naturally execute what is determined by the determining unit since, as stated above, KYOCERA teaches the function of the determining unit, that of indicating a priority between a user's intention to watch content and the user's intention to receive notification of an incoming call based on the "use history" of the visual content.

Regarding claim 12, see [0034] of KYOCERA; "answering machine".

Regarding claim 13 refer to the different "flag(s) and mode(s)" that can be set in KYOCERA.

Claims 14-22 recite parallel features of claims 1-3, 5, 6, 9, 10, 12, and 13 in a method form.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Response to Arguments

7. Applicant's arguments with respect to claims 1 and 14 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARRY HONG whose telephone number is (571)272-7485. The examiner can normally be reached on is normally off on Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Harry S. Hong/
Primary Examiner, Art Unit 2614

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